

Mr [REDACTED]  
Sent via email only: [REDACTED]

**Ref: FOI-453**

08 November 2024

Dear [REDACTED]

1. Thank you for your email of 12 October 2024 in which you requested information from UK Anti-Doping ('UKAD') under the Freedom of Information Act 2000 ('the Act'). Specifically, your request was as follows:

*I would like to request the following under FOI from years 2014-2024 (or else whichever years during that period UKAD holds data). And, if possible, I would like all the below broken down on a sport-by-sport basis.*

1. *Number of TUE applications made to UKAD by those diagnosed with ADHD.*
2. *Number of TUE applications made to UKAD by those diagnosed with asthma.*
3. *The respective numbers granted by UKAD for both of the above.*
4. *The respective numbers granted to athletes through other bodies such as international federations (for which UKAD has data).*

### Summary of Response

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2. UKAD confirms that, subject to the clarifications explained below, it holds the information to Parts 1 – 3 of your request, as well as the requested breakdown by sport.
3. Please note that the information you requested in relation to Part 3 has been included in Tables 1 and 2 below.
4. As more particularly explained below, certain information is not being disclosed. We are withholding that information pursuant to section 40 of the Act.

5. UKAD confirms that it does not hold the information to Part 4 of your request and confirms that it cannot share information on behalf of other anti-doping organisations.

### Part 1 of your request

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6. UKAD confirms that it holds Therapeutic Use Exemption ('TUE') data for five years and therefore the information requested at Part 1 of your request, specifically the number of TUE applications made to UKAD by those diagnosed with attention deficit hyperactivity disorder ('ADHD'), is between the years of 2019 to 2024.
7. The information requested at Part 1 is as follows:

**Table 1: Overview of TUE applications submitted to UKAD since 2019 that are related to the diagnosis of ADHD**

Year	Total Submitted	Approved
2019	24	19
2020	19	12
2021	29	15
2022	59	36
2023	94	56
2024^	70	41

^ Includes TUE applications submitted up to and including 21/10/2024.

NB. Pending applications that were submitted in 2024 but have yet to be concluded prior to 21/10/2024 have been excluded.

### Part 2 of your request

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8. UKAD confirms that it holds TUE data for five years and therefore the information requested at Part 2 of your request, specifically the number of TUE applications made to UKAD by those diagnosed with Asthma, is between the years of 2019-2024.
9. The information requested at Part 2 is as follows:

**Table 2: Overview of TUE applications submitted to UKAD since 2019 that are related to the diagnosis of asthma (including exacerbations of asthma)**

Year	Total Submitted	Approved
2019	31	10
2020	12	2
2021	11	4
2022	32	6
2023	21	8
2024 <sup>^</sup>	16	4

<sup>^</sup> Includes TUE applications submitted up to and including 21/10/2024.

NB. Pending applications that were submitted in 2024 but have yet to be concluded prior to 21/10/2024 have been excluded.

## Sport-by-Sport Breakdown

### 10. Section 40(2) of the Act states:

*Any information... is also exempt information if—*

- a) it constitutes personal data which does not fall within subsection (1) [personal data of which the applicant is the data subject], and*
- b) the first, second or third condition below is satisfied.*

### 11. Section 40(3A)(a) of the Act states:

*The first condition is that the disclosure of the information to a member of the public otherwise than under this Act –*

- (a) would contravene any of the data protection principles,...*

### 12. UKAD has concluded that, in view of the number of TUE applications received in certain sports, there is a genuine risk that disclosure of the information requested may identify an individual making a TUE application if UKAD were to provide the requested information on that sport-by-sport basis. This would mean that any information relating to such an application would constitute “personal data” as defined in Section 3(2) of the Data Protection Act 2018 (‘DPA’) and Article 4(1) of the General Data Protection Regulation (EU) 2016/679 (‘UK GDPR’). This is because it would be information relating to an identified living individual.

13. Having determined that the information you have requested is personal data, UKAD has gone on to consider whether disclosure would contravene any of the data protection principles as set out in Chapter 2, Article 5(1)(a) of the UK GDPR. The first data protection principle states that personal data shall be processed transparently, fairly and lawfully.
14. The lawful basis on which UKAD processed personal data is contained in Chapter 2, Article 6(1)(e) of the UK GDPR and section 8 of the DPA, being that it is necessary for the performance of a task carried out in the public interest (i.e., eliminating doping in sport). However, as set out in the Information Commissioner's (ICO) Guidance Note on section 40 of the Act, UKAD's lawful processing of personal data for this purpose does not extend to disclosure to the general public under the Act<sup>1</sup>.
15. Accordingly, UKAD may only lawfully disclose the information you have requested on a different basis. The only two bases that may apply are consent (being consent to disclose that information under the Act) or if disclosure would be necessary for the purposes of legitimate interests. Athletes applying for a TUE have an expectation that their application and the details associated with it will remain confidential. Therefore, UKAD may only lawfully disclose this information to you if it is necessary for the purposes of legitimate interests. To establish this lawful basis, all three of the following criteria must be met:
  - i. The purpose of disclosure is a legitimate interest;
  - ii. Disclosure must be necessary for that purpose; and
  - iii. The legitimate interests outweigh the interests and rights of the individual.
16. UKAD acknowledges the legitimate public interest in transparency and accountability regarding anti-doping matters. However, it is UKAD's view that disclosing the information you have requested would not be necessary to achieve that purpose, particularly given the information UKAD publishes pursuant to the Rules. UKAD is also of the view that even if such disclosure was necessary, it would not outweigh an individual Athlete's right to privacy when applying for a TUE. Therefore, UKAD does not have a lawful basis to disclose this information to you and we are withholding the information requested under the exemption in section 40 of the Act.
17. For completeness, UKAD's position is that, to the extent such disclosure may constitute processing of special category data, it also does not consider any of the

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<sup>1</sup> Available [here](#).

relevant conditions (per Article 9 UK GDPR) to the prohibition generally on processing such data apply here. UKAD has a specific 'anti-doping derogation' for processing special category data in connection with its public purposes (paragraph 27, Schedule 1, Part 2 of DPA). In UKAD's view, the derogation does not extend to the type of processing which might be required in responding to your specific request.

## Considerations

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18. For the purposes of these TUE statistics, an approved TUE is an application which fulfils the conditions for granting a TUE as outlined in the International Standard for TUEs ('ISTUE'). In order for a TUE to be granted, the UKAD TUE Committee must be unanimous in their decision that the application fulfils these conditions.
19. The data does not include information on TUE applications submitted by International-Level Athletes to their International Federation. Each International Federation defines which Athletes they consider to be international level. This typically includes Athletes either selected to be within the International Federation's Registered Testing Pool and/or competing at an international event.
20. The timing of when an Athlete needs to apply for a TUE and who they need to apply to is based on their sport and competition level. Only Athletes in the National TUE Pool are required to apply for and obtain a TUE with UKAD in advance of starting treatment with a prohibited medication or method (unless exceptional circumstances apply). Athletes who are not included within the National TUE Pool nor are defined as being an International-Level Athlete do not need to obtain a TUE in advance of starting treatment but instead are required to apply for a retroactive TUE if they are subject to Doping Control. As a result, the dataset on TUE approvals may only be representative of Athletes included within the National TUE Pool. Prospective TUE applications submitted by Athletes who are not included within the National TUE Pool for their respective sport are not processed by UKAD.
21. TUEs are granted for specific time periods (e.g. one-off, seven days, three months, six months, one year, two years, etc). This means that some TUEs may need renewing on more than one occasion during a year or each year depending on the timing of when the TUE was granted and duration of approval. As a result, the dataset may count the same Athlete on more than one occasion within a given year or over multiple years for the same diagnosed medical condition.
22. Athletes diagnosed with asthma (or a clinical variant) do not necessarily need to apply for a TUE if their treatment is: i. permitted (e.g. inhaled beclometasone); ii.

permitted at the dose they have been prescribed to use therapeutically (e.g. inhaled salbutamol); or iii. prohibited In-Competition only (e.g. oral prednisolone) and the Athlete is only returning to competition after completing their treatment course.

## Conclusion

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23. If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of this response and should be addressed via email to [foi@ukad.org.uk](mailto:foi@ukad.org.uk). Please remember to quote the reference number above in any further communications.
24. If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely

A handwritten signature in blue ink that reads "UK Anti-Doping".

**UK Anti-Doping**